

FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING

2016 APR 14 PM 2:35

STEPHAN HARRIS, CLERK  
CHEYENNE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

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UNITED STATES OF AMERICA,

Plaintiff(s),

vs.

GILBERT WAYNE WILES, JR.,

Defendant(s).

Case No. 16-CR-00019-ABJ

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**ORDER IN LIMINE**

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This matter has come to the attention of the court on the Government's Notice of Possible Federal Rule of Evidence 801 (d)(2)(E) Statements filed in support of its contention that statements made by Defendant Lewis post arrest during recorded, intercepted telephone conversations made from the detention facility to an unnamed person the Government characterizes as a co-conspirator. The elements for receiving this evidence have not been established by a preponderance of the evidence although the Government states its contentions why the statements should be received in the Notice.


At least three areas of concern appear to the court regarding the conversations. First, did the conversations occur during the life of the alleged conspiracy? Second, what evidence

suggests that the participants in the call were in fact co-conspirators in the conspiracy alleged in the Indictment? Third, what evidence, including the conversations that have been recorded, make it more likely than not the conversations were made in furtherance of the alleged conspiracy? These and possibly other issues should be addressed in an analysis of the admissibility of the evidence.

Defendant may wish to challenge the admissibility of the recorded "jail" statements before they may be offered into evidence. Accordingly

**IT IS ORDERED** that the Government is prohibited in limine from any reference to the substance of the "jail" statements in its opening, in argument before the jury or in its case in chief until a hearing has been conducted out of the presence of the jury and the court has ruled that the statements or conversations may be admitted as evidence.

Dated this 14<sup>th</sup> day of April, 2016.

  
Alan B. Johnson  
United States District Judge